

Exhibit C

Educational Materials for Process Servers



Department of
Consumer Affairs

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New York City Laws and Rules regarding Process Servers

New York City Administrative Code and Rules regarding Process Servers

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE

TITLE 20: CONSUMER AFFAIRS

CHAPTER 2: LICENSES

SUBCHAPTER 23: PROCESS SERVERS

§ 20-403 License required. It shall be unlawful for any person to be employed as or perform the services of process server without a license therefor.

§ 20-404 Definition.

- a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.
- b. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§ 20-405 Exceptions.

- a. The provisions of this subchapter shall not apply to any employee of any city, state or federal department or agency, who is acting within the scope of his or her employment.
- b. The provisions of this subchapter shall not apply to attorneys duly admitted to practice law in the state of New York.

§ 20-406 Application; fingerprinting.

a. An application for such a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.

b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-sized photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

§ 20-407 Fee; term. The biennial license fee to be paid by such persons shall be three hundred forty dollars.

§ 20-408 Rules and regulations. The commissioner may make and promulgate such rules and regulations as he or she may deem necessary for the proper implementation and enforcement of this subchapter.

§ 20-409 Issuance, renewal, suspension and revocation of a license.

a. A license issued hereunder may be suspended or revoked or its renewal denied by the commissioner at any time for the failure of the licensee to comply with any rule, regulation or order promulgated by the commissioner.

b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

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RULES OF THE CITY OF NEW YORK

TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 2: LICENSES

SUBCHAPTER W: PROCESS SERVERS

§2-231 Definitions.

For the purposes of the application of Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code, (unless the context indicates otherwise), the following definitions apply.

Engaged in the business of serving. "Engaged in the business of serving" means the following:

- (1) Service of five or more processes within the City of New York in any one calendar year; or
- (2) One who assigns, distributes or delivers processes to another for actual service.

Person. "Person" shall mean any individual, firm, company, partnership, corporation, association or other organization.

Process. "Process" shall mean a summons, notice of petition, order to show cause, subpoena, notice, citation or other legal paper issued under the laws of the State of New York directing an appearance or response to a legal action, legal proceeding or administrative proceeding; provided, however, that if under the laws of the State of New York the mailing of such legal paper is sufficient to effect service, such legal paper shall not be process for the purpose of this subchapter.

Process Server. "Process Server" shall mean a person engaged in the business of serving process upon any person, corporation, governmental or political subdivision or agency.

§2-232 License Requirement Exceptions.

(a) No license under Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code is required of any employee of any city, state or federal department or agency, who is acting within the scope of his employment.

(b) No license under Subchapter 23 shall be required of any attorneys duly admitted to practice in the State of New York.

(c) No license under Subchapter 23 shall be required of any employee of a process server or attorney who does not actually serve process.

(d) The provisions of Subchapter 23 shall only apply to service of process within the City of New York.

§2-233 Records.

(a) *Duty of individual licensee to keep records.* Each process server shall keep records in compliance with the provisions of §89-c of the General Business Law, as follows:

(1) Each process server shall maintain a legible record of all service made by him as prescribed in this section.

(2) The record to be maintained shall include the following information, where applicable:

- (i) the title of the action;
- (ii) the name of the person served, if known;
- (iii) the date and approximate time service was effected;
- (iv) the address where service was effected;
- (v) the nature of the papers served;
- (vi) the court in which the action has been commenced;
- (vii) the index number of the action, if known.

(3) If service is effected pursuant to subdivisions one, two, or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to, sex, color of skin, hair color, approximate age, height and weight and other identifying features.

(4) If service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivisions one, two or three of such section.

(5) If the process server files an affidavit of service with the court, his record shall include the date of such filing.

(6) Process servers shall retain each record required to be kept under this §2-233(a) for a period of two years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state for the same period.

(b) Licensees who serve process shall also include in their records the following:

(1) If service is effected pursuant to CPLR 308(4) or RPAPL 735(1), a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.

(2) The person or firm from whom the process served was received.

(3) Type of service effected whether personal, substituted or conspicuous.

(4) The postal receipt number of registered or certified mail if service is effected pursuant to RPAPL 735(1).

(5) Records shall be kept in chronological order in a bound, paginated volume.

(6) Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

(c) Duty of other licensees to keep records. Every licensee shall keep complete and accurate records with respect to each individual licensee to whom he distributes, assigns or delivers process to be served. Such records shall include:

(1) The name of the individual licensee to whom process is distributed, assigned or delivered to be served;

(2) The names and index numbers of each case;

(3) The date that such papers were assigned for service, and the date that service was effected;

(4) The person from whom such papers were received for service;

(5) The date of filing of papers with the court.

(d) Availability of records. All records shall be retained by the licensee for two years or until further order of the department and shall be available for inspection by the Commissioner of Consumer Affairs or his designee. For the convenience of licensees, the Department has made a suggested form a part of this regulation. Any form which allows the licensee to record the information required by this regulation is acceptable.

§2-234 Duty to Comply with Law.

The licensee shall at all times strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in